

## REMARKS

Favorable consideration of this application is respectfully requested.

Claims 1-5, 8-21, 23-31, and 37 are currently active in this case. Claim 27 has been amended, and Claims 32-34, 36, and 38-39 have been canceled by way of the present amendment. Amended Claim 27 is supported by the specification and claims as originally submitted and no new matter has been added.

In the outstanding Official Action, Claims 27 and 38 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite; and Claims 1-5, 8-12, 21, 23-34, 36, 38, and 39 were rejected under 35 U.S.C. §103(a) over *Chien* (U.S. Patent No. 5,775,016) in view of *Bodle* (U.S. Patent No. 6,276,634).

Applicant appreciatively acknowledges the Examiner's identification of allowable subject matter in Claims 13-20 and the allowance of Claim 37.

Please cancel Claims 32-34, 36, and 38-39 without prejudice.

Applicants respectfully traverse the rejection of Claim 27 as being indefinite. Applicants have amended Claim 27 to remove the optional limitation previously presented in Claim 27. The broadened scope of Claim 27 is believed to be definite under 35 USC 112, second paragraph. If the Examiner disagrees, the Examiner is invited to call the undersigned who will be happy to work with the Examiner in a joint effort to derive mutually satisfactory claim language.

Applicants respectfully traverse the rejections of Claims 1 and 21 as being unpatentable over *Chien* and further in view of *Bodle*. Claim 1 recites:

***A method of manufacturing a photoluminescent track for an emergency lighting system comprising providing an elongate hollow outer member and an elongate inner member having photoluminescent***

***material on at least one side, said outer member being of unitary box-section having first and second major wall portions and opposed side wall portions, said first and second major wall portions extending between and integral with said side wall portions to define a longitudinally extending slot, and push-fitting said inner member in said outer member from one end of said outer member whereby said inner member is surrounded and enclosed by said first and second major wall portions of opposed side wall portions of said outer member, wherein said outer member is formed with an internal longitudinal slot for inserting said inner member, and sealing said inner member within said slot.***

However, neither *Chien* nor a combination of *Chien* and *Bodle* teach or suggest similar subject matter.

Looking first at *Chien*, Applicants respectfully note that *Chien* describes an emergency lighting system of super thin electro-luminescent lighting elements in a housing. However, *Chien* does not describe sealing the lighting elements within a slot. In contrast, Claim 1 specifically recites "*an inner member having photoluminescent material on at least one side,*" and "*sealing said inner member within said slot.*" Accordingly, Claim 1 cannot be anticipated or obvious in view of *Chein*, because *Chein* fails to teach or suggest subject matter specifically claimed in Claim 1.

Applicants also respectfully traverse the assertion that it would have been obvious to combine *Chien* and *Bodle* to teach sealing the inner member in the slot. Applicants admit that *Bodle* describes vacuum sealing a photoluminescent strip between two covering strips (col. 8, lines 42-47). However therefore, *Bodle* only describes sealing the photoluminescent strip itself between covering strips. In

contrast, Claim 1 specifically recites "*sealing said inner member within said slot*," a structure that is completely different from sealing an item between covering strips.

More importantly, Applicants respectfully note that even if *Chien* and *Bodle* are combined, Applicant's claimed invention does not result. The combined EL and PL strip of *Chien* requires connection of the EL part to an external power supply. This is described and clearly shown in Figure 15 where the terminals 54, 55 extend from the lighting element.

Accordingly, *Chien's* design is not suited for sealing the track because the terminals must necessarily extend therefrom. Therefore, a completely sealed design was not contemplated.

Instead, *Chien's* design seals the EL and PL parts between two sheets of plastics material (see Figure 15G). The housing simply protects the lighting element but does not seal it as there is no need for this because of the way the lighting element is formed. In other words, there is no requirement to seal the housing in the *Chien* reference because the combined EL and PL strip is already a sealed unit in which the EL and PL parts are surrounded and protected by two sheets of plastics material.

In contrast, the housing of the present invention both protects and seals the PL strip to provide a stand alone (unitary) track member that does not have any connection to an external power supply. The problem of providing a connection to an external power source does not exist and the cited *Chien* and *Bodle* references neither separately nor in combination teach or suggest sealing the inner member within the slot as recited in Claim 1. In this respect, the *Bodle* assembly of base member, cover member and end caps is not a sealed unit.

Moreover, neither reference discloses an arrangement in which the outer member is of unitary box section (i.e., rectangular section) that is suitable for use

as a floor mounted track of an emergency lighting system. Claim 1 specifically recites, "...outer member being of unitary box-section having first and second major wall portions and opposed side wall portions...". Accordingly, even if combined (and such combination is not admitted to be obvious) the resulting combination still does not lead to or suggest all the features recited in Claim 1.

Applicants respectfully note that Claim 21 includes an "inner member" having "photoluminescent material on at least one side," and a closure attached to the outer member to "seal said slot and retain said inner member within said outer member." And, Claim 21 also recites, "unitary box-section having first and second major wall portions and opposed side wall portions". Therefore, Applicants respectfully submit that Claim 21 is also patentably distinct from the cited references either individually or combined. Accordingly, Applicants respectfully submit that Claims 1 and 21 are patentable.

Regarding Claim 23, Applicants also respectfully note that *Bodle's* end caps (col. 2 lines 55-57) are also not suitable when combined with *Chein* because *Chien* utilizes terminals 54 and 55 which are exposed. Accordingly, the combination does not suggest Applicant's Claim 23 which is based on a sealed slot as recited in parent Claim 21.

Based on the patentability of independent Claims 1 and 21, Applicants further respectfully submit that dependent Claims 2-5, 8-20, and 23-31 are also patentable. Claim 37 has already been allowed.

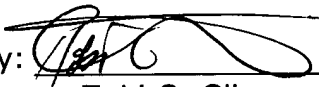
Consequently, no further issues are believed to be outstanding, and it is respectfully submitted that this case is in condition for allowance. An early and favorable action is respectfully requested.

Respectfully submitted,

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